

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

CHRISTINE M. NIEDERMEIER,

Plaintiff,

v.

**WIGGIN & NOURIE, P.A.; DANIEL
DUCKETT; and CYRUS RILEE, III,**

Defendants.

**Civil Action No.
15-11663-FDS**

ORDER ON MOTION TO REOPEN

SAYLOR, J.

On May 25, 2018, the parties reported that a settlement had been reached, and the Court entered an order of dismissal. Plaintiff Christine Niedermeier has since moved to reopen the case, disputing certain language defendants included in the general release and stipulation of dismissal form. It appears the parties dispute whether plaintiff's claims are released as to non-party Axis Insurance and whether plaintiff must execute the release before receiving the settlement proceeds.

As to the first issue, the Court finds that there was a valid contract between plaintiff and defendants Wiggin & Nourie, P.A., Daniel Duckett, and Cyrus Rilee. *See Conte v. Bank of America, N.A.*, 52 F. Supp. 3d 265 (D. Mass. 2014) ("The essential elements of a valid contract are an offer, an acceptance, and consideration."). In exchange for the agreed-upon confidential settlement amount, plaintiff would release and discharge all claims against the named defendants. That settlement agreement is enforceable. It does not appear, however, that the

parties ever had a meeting of the minds as to whether Axis Insurance should be released as part of the settlement.

As to the second issue, the execution of the release and payment of the proceeds are consideration for each other. It is immaterial whether they occur simultaneously, or in any particular sequence that is reasonably simultaneous.

Accordingly, plaintiff has not shown good cause to reopen the case, and the motion to reopen is DENIED. The parties are directed to execute a general release consistent with this order, and defendants are directed to pay the settlement proceeds reasonably simultaneously with the execution of the release.

So Ordered.

Dated: June 28, 2018

/s/ F. Dennis Saylor
F. Dennis Saylor IV
United States District Judge